



Setti D. Warren  
Mayor

## CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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|                                |                  |
|--------------------------------|------------------|
| Public Hearing Date:           | February 9, 2010 |
| Land Use Action Date:          | April 20, 2010   |
| Board of Aldermen Action Date: | May 3, 2010      |
| 90-Day Expiration Date:        | May 10, 2010     |

DATE: February 5, 2010

TO: Board of Aldermen

FROM: Candace Havens, Acting Director of Planning and Development  
Benjamin Solomon-Schwartz, Senior Planner

CH

SUBJECT: #7-10 KAYNAM HEDAYAT petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND a NONCONFORMING STRUCTURE to construct a new front porch to an existing single-family residence at 49 PHILMORE ROAD, Ward 7, NEWTON, on land known as Sec 73, Blk 15, Lot 8, containing approx 9,694 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

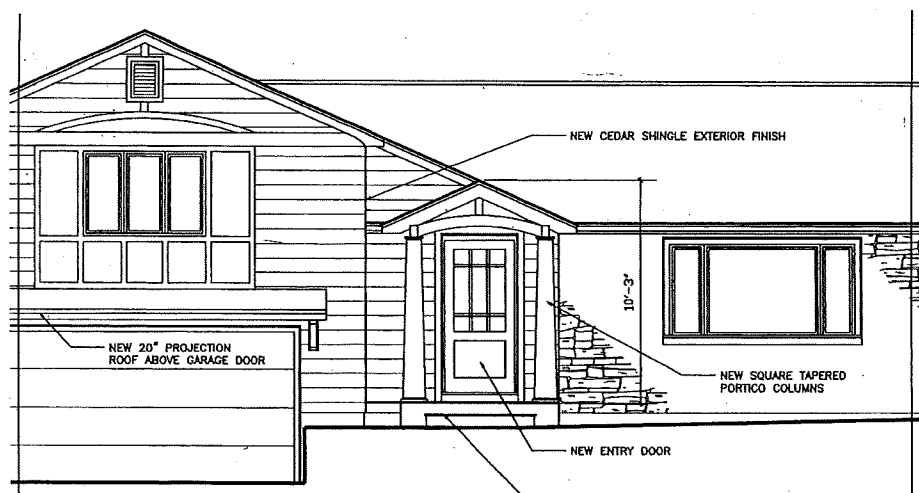
CC: Mayor Setti Warren

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



### EXECUTIVE SUMMARY

The petitioner seeks to add a covered porch to the front entrance of an existing single-family home. The proposal will reduce the front setback from 23.4 feet to 17.7 feet where 25 feet are required, extending the nonconformity of the structure with regard to the front setback. The 2007 *Newton Comprehensive Plan* encourages preservation of existing neighborhoods. The Planning Department believes minor modifications to a structure can help to preserve the character of existing neighborhoods while allowing occupants the flexibility to meet the housing needs of today's families. The modest addition of a portico adjacent to the front entrance will help ensure that the house will be usable for current and future residents.



*View of existing residence with the Newton Commonwealth Golf Course  
in the background (above) and proposed elevation (below)*

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When considering this request, the Board should consider whether the proposed expansion of a nonconforming structure would be substantially more detrimental to the neighborhood than the existing nonconforming structure.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located off of Waverly Avenue on a dead-end street in the Ward Elementary School neighborhood within a Single Residence 2 District (*SEE ATTACHMENTS "A" AND "B"*). The neighborhood includes many brick Tudor-style residences.

B. Site

The 9,694 sq. ft. site currently contains one single-family home. The site slopes downwards towards the Newton Commonwealth Golf Course.

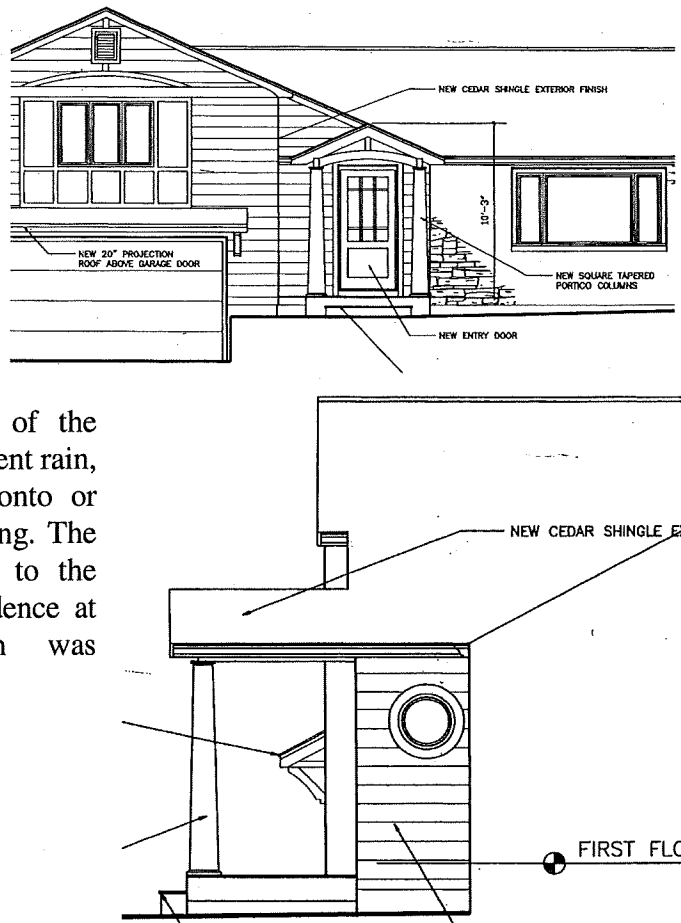
III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

No change of use is proposed.

B. Building and Site Design

The existing residence is a split-level house built in 1950. The petitioner proposes to add a 43.5-sq. ft. covered front porch to the residence. The new portico will increase the functionality and the comfort of the front entrance by helping to prevent rain, snow, and ice from draining onto or accumulating on the front landing. The proposal has a similar design to the portico at the neighboring residence at 43 Philmore Road, which was constructed by variance in 2002.



*Proposed front elevation (above) and side view (below)*

C. Landscape Screening and Lighting

The petitioners have not proposed any additional landscape screening as part of the project. Due to the modest scale of this project, additional landscaping is not necessary.

IV. COMPREHENSIVE PLAN

The 2007 *Newton Comprehensive Plan* encourages preservation of existing neighborhoods. The Planning Department believes minor modifications to a structure can help preserve the character of existing neighborhoods while allowing occupants the flexibility to meet the housing needs of today's families. The modest addition of a covered front porch will help ensure that the house will be usable for current and future residents.

V. TECHNICAL REVIEW

A. Technical Considerations (Section 30-15). The Zoning Review Memorandum, dated November 10, 2009, provides an analysis of the proposal with regard to Section 30-15 Tables 1. A special permit is required to extend the nonconformity of the existing structure with regard to the front yard setback.

B. Other Reviews

1. Engineering. Engineering review is not necessary for this petition.
2. Fire Department. Fire access review is not necessary for this petition.

VI. ZONING RELIEFS SOUGHT

Based on the completed zoning review, dated November 10, 2009 (*SEE ATTACHMENT "C"*), the petitioner is seeking approval through or relief from:

- Section 30-21(b), to expand a nonconforming structure
- Section 30-23, for approval of the proposed site plan
- Section 30-24(d), for approval of special permit

VII. Summary of Petitioner's Responsibilities

This petition is currently complete.

**ATTACHMENTS**

**ATTACHMENT A:**      *Zoning Map*

**ATTACHMENT B:**      *Land Use Map*

**ATTACHMENT C:**      *Zoning Review Memorandum, dated November 10, 2009*

# Zoning Map

## 49 Philmore Rd. and Vicinity

City of Newton,  
Massachusetts

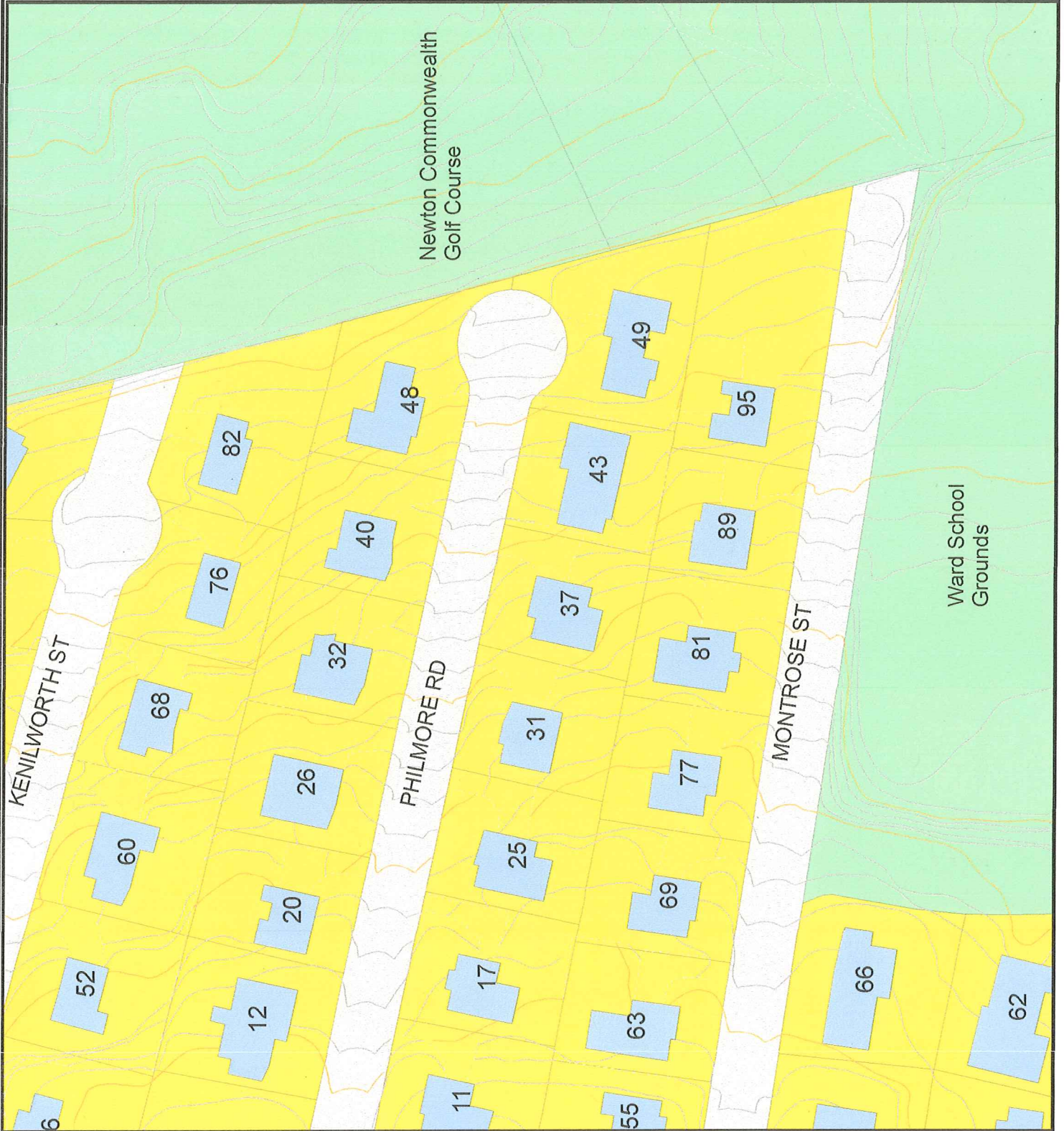
| Legend |                       |
|--------|-----------------------|
|        | Building Outlines     |
|        | Single Res. 1         |
|        | Single Res. 2         |
|        | Single Res. 3         |
|        | Business 1            |
|        | Business 2            |
|        | Business 4            |
|        | Business 5            |
|        | Limited Manufacturing |
|        | Manufacturing         |
|        | Multi-Res. 1          |
|        | Multi-Res. 2          |
|        | Multi-Res. 3          |
|        | Multi-Res. 4          |
|        | Mixed Use 1           |
|        | Mixed Use 2           |
|        | OS/Rec.               |
|        | Public Use            |
|        | Surface Water         |



The information on this Geographic Information System (GIS) map is for informational purposes only. It does not constitute a legal document. Each user of the information is responsible for determining its suitability for their own purposes. City departments may not be able to approve applications based on this information.



MAP DATE: Jan 2011

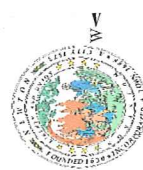


# Land Use Map

49 Philmore Rd.  
and Vicinity

City of Newton,  
Massachusetts

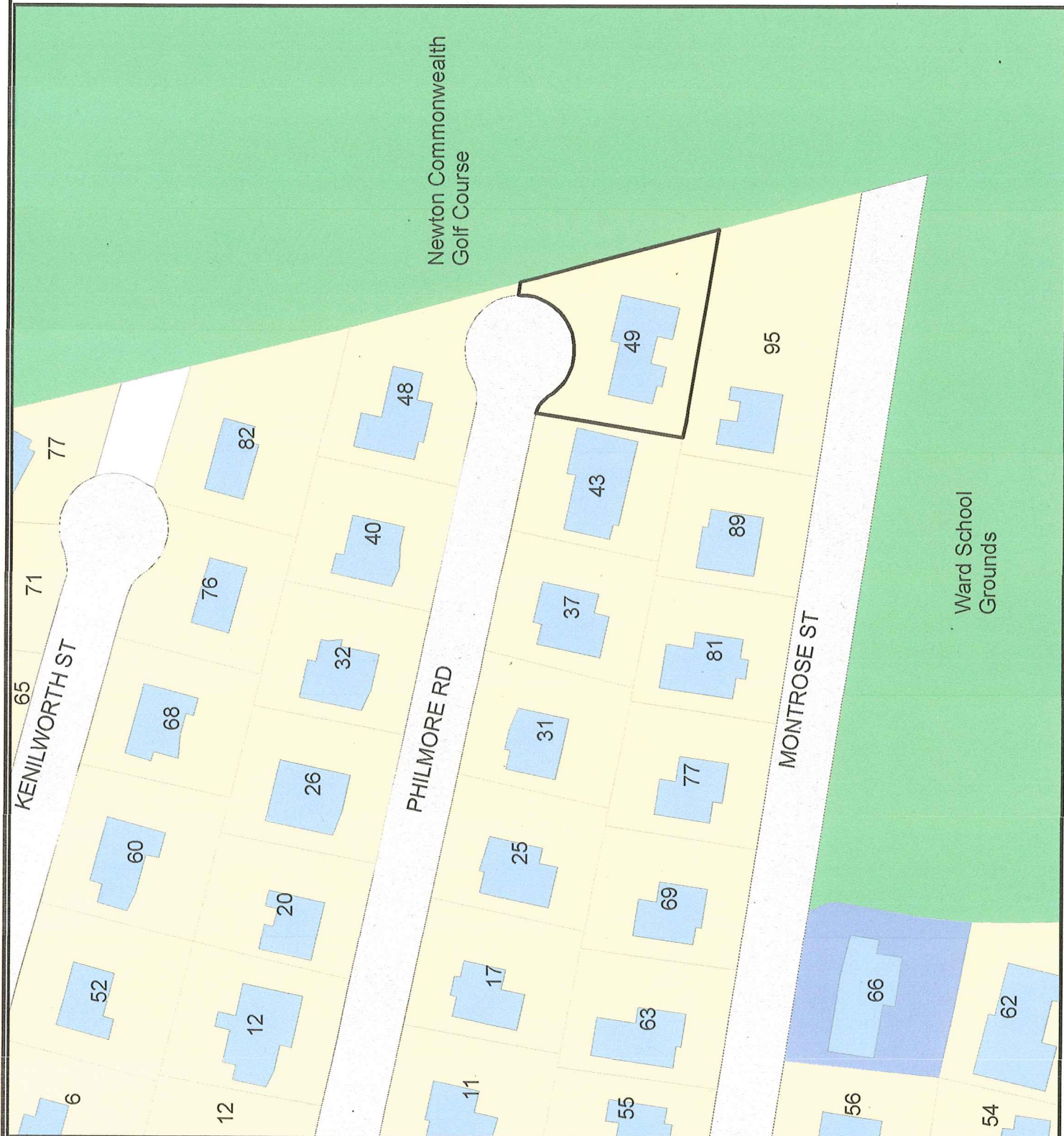
| Legend |                           |
|--------|---------------------------|
|        | Building Outlines         |
|        | Single Family Residential |
|        | Two Family Residential    |
|        | Condominiums              |
|        | Other Residential         |
|        | Mixed Use                 |
|        | Commercial                |
|        | Industrial                |
|        | Vacant Land               |
|        | Golf Course               |
|        | Open Space                |
|        | Private Educational       |
|        | Nonprofit Organizations   |
|        | Public Housing            |
|        | Tax Exempt                |
|        | Unspecified               |
|        | Surface Water             |



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feet


MAP DATE: Ja



## Zoning Review Memorandum

Dt: November 10, 2009

To: John Lojek, Commissioner of Inspectional Services

Fr: Eve Tapper, Chief Zoning Code Official  
Candace Havens, Chief Planner 

Cc: Michael Kruse, Director, Department of Planning and Development  
Kaynam Hedayat, property owner  
Ouida Young, Associate City Solicitor

RE: Request to construct a new front porch

**Applicant: Kaynam Hedayat and Sepideh Sahami**

|   |   |
|---|---|
| <b>Site:</b> 49 Philmore Road<br><b>Zoning:</b> SR-2<br><b>Current use:</b> Single-family residence | <b>SBL:</b> Section 73, Block 15, Lot 8<br><b>Lot Area:</b> 9,694 sq. ft.<br><b>Proposed use:</b> Single-family residence |
|---|---|

**Background:**

The subject property consists of a 9,694 sq. ft. lot currently improved with a legal, nonconforming single-family residence. The applicants would like to construct a new front porch to address drainage problems they have experienced in the past.

**Administrative determinations:**

1. The subject site is comprised of a lot created before December 7, 1953 ("old lot") and is subject to pre-1953 dimensional controls applicable to lots in the SR-2 zone. The following review is based on the materials and plans received to date referenced under Plans and Materials Reviewed, below.

**Plans and materials reviewed:**

- Letter from property owners to the Newton Zoning Board of Appeals
- "Plan Showing Proposed Addition in Newton, Mass," dated May 4, 2009, signed and stamped by Dennis B. O'Brien, Professional Land Surveyor
- "A3, Hedayat/Sahami Residence, 49 Philmore Rd., Newton, MA, Proposed Portico and Landscape Plan," drawn by Richard B. Levey architects, neither signed nor stamped by a licensed professional, dated 6/17/09
- "A2, Hedayat/Sahami Residence, 49 Philmore Rd., Newton, MA, Existing and Proposed Elevations," drawn by Richard B. Levey architects, neither signed nor stamped by a licensed professional, dated 6/17/09

2. The following table sets forth the applicable dimensional controls for residences located in the SR-2 zone:

| <b>SR-2 (Old Lot)</b>      | <b>Required</b> | <b>Existing</b> | <b>Proposed</b>  |
|----------------------------|-----------------|-----------------|------------------|
| Lot Area                   | 10,000 sq. ft.  | <b>9,694</b>    | <b>No change</b> |
| Frontage                   | 80 ft.          | 80.26 ft.       | No change        |
| Setbacks                   |                 |                 |                  |
| Front                      | 25 ft.          | <b>23.4 ft.</b> | <b>17.7 ft.</b>  |
| Side                       | 7.5 ft.         | 21.5 ft.        | No change        |
| Rear                       | 15 ft.          | 16.3 ft.        | No change        |
| Total Floor Area Ratio     | .3              | Not provided*   | No change        |
| Max. building lot coverage | 30%             | 20.7%           | 21.2%            |
| Min. amount of open space  | 50%             | 64.7%           | 64.4             |

\* The applicant did not provide the FAR figure. However, it is not relevant to this review since the proposed project will not change the FAR for the property.

3. The subject property is legally nonconforming with respect to the front setback. The proposed project will increase this nonconformity. The applicant must obtain a special permit from the Board of Alderman for the expansion of a nonconforming structure under Section 30-21(b).
4. See "Zoning Relief Summary" below.

| <b>Zoning Relief Summary</b> |  |                        |
|------------------------------|--|------------------------|
| <b>Ordinance</b>             | <b>Use</b>                             | <b>Action Required</b> |
| §30-21(b)                    | Expansion of a nonconforming structure | SP per §30-24          |